IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 210 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JEEVIBEN HARIBHAI PATEL

Versus

SECRETARY TO THE GOVT. OF GUJARAT

Appearance:

MR PH PATHAK for the Petitioner.

Mr.Dagli, Assistant GOVERNMENT PLEADER,

for Respondent No. 1-2

DS AFF.NOT FILED (R) for Respondent No. 3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 07/05/2003

ORAL JUDGEMENT

At the time of arguing this matter, on behalf of the petitioner, it is submitted that the husband of the

petitioner was never dismissed from service at any point of time. The Department, therefore, was asked to produce necessary material whether the petitioner's husband continued in Service till his superannuation or whether he was dismissed from service.

Today, Mr.Dagli, learned AGP, has kept the file ready for perusal and from the same, he has pointed out that the husband of the petitioner was dismissed by an order dated 17.2.1977, as, he remained absent from duty for two days. The husband of the petitioner was also convicted on the same ground by a competent criminal court. Even appeal against that order is dismissed. In that view of the matter, question about giving any family pension to the petitioner cannot now be considered as in view of the order of dismissal, no such benefit of family pension can be given to the petitioner, who is the wife of the deceased employee. Mr.Parmar, who is appearing for Mr.Pathak, however, submitted that the petitioner would like to challenge the dismissal order passed against the husband of the petitioner. This Court is not required to express any opinion on the said aspect, as, that is not the subject matter of this petition.

So far as the present petition is concerned, no relief can be granted to the petitioner. In case the order of dismissal of the petitioner is set aside, in that eventuality, the petitioner can revive the request for family pension.

Copy of the order of dismissal passed against the husband of the petitioner is kept on record. Mr.Parmar has also perused the aforesaid order and Mr.Dagli, learned AGP, has also given a copy of the said order to Mr.Parmar, learned Advocate for the petitioner, who has accepted the said copy.

The petition is accordingly dismissed. Rule is discharged. No costs.

7th May, 2003 (P.B. Majmudar, J.)

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(apj)